IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 07.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Writ Appeal No. 1674 of 2003
& WAMP No.2283 of 2003

Lakshmana Pillai ... Appellant

Vs.

1.The District Collector,
Salem.

2.The Special Tahsildar,
Adi Dravidar & Tribal Welfare,
Omalur, Salem District. .. Respondents

Writ appeal filed under Clause 15 of the Letters Patent against the order dated 28.02.2002 made in W.P.No.7743 of 2000.

For Appellant : Mr.G.Arul Murugan
For Respondents 1 and 2 : Mr.C.Thirumaran, Government Advocate

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above appeal has been filed against the order of the learned single Judge dated 28.02.2002 in W.P.No.7743 of 2000, in and by which, the learned single Judge dismissed the writ petition filed for questioning the acquisition proceedings initiated under the Tamil Nadu Act 31 of 1978.

2. Heard the learned counsel appearing for the appellant as well as the learned Government Advocate for the respondents.

3. The only contention of the learned counsel for the appellant is that the appellant was not served the Form-1 notice, which is mandatory as per Section 4(2) of the Tamil Nadu Act 31 of 1978.

4. In view of the fact that before the learned single Judge, the respondents have not filed counter affidavit meeting the said aspect, we directed the learned Government Advocate to secure the relevant records.

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5. Today, the learned Government Advocate, on perusal of the records informs this Court that there is no endorsement or proof to show that Form-1 notice was served to the petitioner/appellant.

6. In such circumstances and in view of the fact that the only notice/opportunity available to the land owner is notice under Form-1 under Section 4(2) of the Act, we have no other option except to quash the acquisition proceedings. The learned single Judge has not adverted to the said aspect. Accordingly, the order dated 28.02.2002 passed in W.P.No.7743 of 2000 is set aside. The writ appeal is allowed. However it is made clear that if the respondents so desire, they are free to initiate fresh proceedings in accordance with law. No costs. WAMP No.2283 of 2003 is closed.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The District Collector,
Salem.

2.The Special Tahsildar,
Adi Dravidar & Tribal Welfare,
Omalur, Salem District.

1 CC TO GP, SR NO 29408

1 CC TO MR.G. ARUL MURUGAN, ADBVOCATE SR NO 29323

W.A.No. 1674 of 2003

AK(CO)

BP

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